

# **Revised Administrative Rules for Special Education**

(effective June 6, 2002)

Michigan State Board of Education

Michigan Department of Education

DEPARTMENT OF EDUCATION  
STATE BOARD OF EDUCATION  
SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on May 29, 2002.  
These rules take effect on June 6, 2002.

(By authority conferred on the state board of education by sections 1701 and 1703 of 1976 PA 451, MCL 380.1701 and 380.1703)

R 340.1701, R 340.1701a, R 340.1701b, R 340.1702, R 340.1705, R 340.1706, R 340.1707, R 340.1708, R 340.1709, R 340.1710, R 340.1711, R 340.1713, R 340.1714, R 340.1715, R 340.1721, R 340.1721a, R 340.1721b, R 340.1721c, R 340.1721d, R 340.1721e, R 340.1722, R 340.1722a, R 340.1722e, R 340.1723c, R 340.1724, R 340.1724a, R 340.1724d, R 340.1725e, R 340.1732, R 340.1733, R 340.1734, R 340.1738, R 340.1739, R 340.1740, R 340.1741, R 340.1742, R 340.1743, R 340.1744, R 340.1745, R 340.1746, R 340.1747, R 340.1748, R 340.1749, R 340.1749a, R 340.1749b, R 340.1749c, R 340.1750, R 340.1751, R 340.1754, R 340.1755, R 340.1756, R 340.1757, R 340.1758, R 340.1771, R 340.1772, R 340.1781, R 340.1782, R 340.1783, R 340.1786, R 340.1787, R 340.1788, R 340.1790, R 340.1792, R 340.1793, R 340.1795, R 340.1796, R 340.1797, R 340.1798, R 340.1799, R 340.1799a, R 340.1799b, R 340.1799c, R 340.1801, R 340.1802, R 340.1803, R 340.1808, R 340.1809, R 340.1810, R 340.1811, R 340.1812, R 340.1831, R 340.1832, R 340.1833, R 340.1835, R 340.1836, R 340.1837, R 340.1838, R 340.1839, R 340.1851, R 340.1852, R 340.1853, and R 340.1861 of the Michigan Administrative Code are amended; R 340.1703, R 340.1704, R 340.1722c, R 340.1722d, R 340.1722f, R 340.1723, R 340.1723a, R 340.1723b, R 340.1724b, R 340.1725, R 340.1725a, R 340.1725b, R 340.1725c, R 340.1725d, R 340.1736, R 340.1737, R 340.1753, R 340.1773, R 340.1784, R 340.1785, R 340.1791, R 340.1794, R 340.1799d, R 340.1805, R 340.1806, R 340.1834, R 340.1862, R 340.1863, R 340.1864, R 340.1865, R 340.1866, R 340.1867, R 340.1868, R 340.1869, R 340.1870, R 340.1871, R 340.1872, and R 340.1873 of the Code are rescinded; and R 340.1701c, R 340.1709a, R 340.1716, R 340.1724c, R 340.1725f, R 340.1774, R 340.1783a, R 340.1793a, R 340.1799e, and R 340.1799f are added to the Code as follows:

April 25, 2002

## DEPARTMENT OF EDUCATION

### OFFICE OF SPECIAL EDUCATION AND EARLY INTERVENTION SERVICES

#### PART 1.

#### GENERAL PROVISIONS

##### **R 340.1701 Assurance of compliance.**

**Rule 1.** All public agencies in the state, as those agencies are defined at 34 C.F.R. §300.22 of the regulations implementing the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400 et seq., shall comply with these rules; all provisions of the state's application for federal funds under part B of the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400 et seq.; the requirements of part B of the individuals with disabilities education act; and the regulations implementing the individuals with disabilities education act, 34 C.F.R. part 300, which are adopted by reference in these rules. Copies are available, at cost, from the Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA, 15250, or from the Center for Educational Networking, Eaton Intermediate School District, 1790 East Packard Highway, Charlotte, MI, 48813.

##### **R 340.1701a Definitions; A to D.**

**Rule 1a.** As used in these rules:

(a) "Adaptive behavior" means a student's ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including the local school district, public school academy, intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to students with disabilities.

(c) "Complaint" means a written and signed allegation that includes the facts on which the allegation is based, by an individual or an organization, that there is a violation of any of the following:

(i) Any current provision of these rules.

(ii) 1976 PA 451, MCL 380.1 et seq., as it pertains to special education programs and services.

(iii) The individuals with disabilities education act of 1997, 20 U.S.C., chapter 33, §1400 et seq., and the regulations implementing the act, 34 C.F.R. part 300.

(iv) An intermediate school district plan.

(v) An individualized education program team report, hearing officer decision, or court decision regarding special education programs or services.

(vi) The state application for federal funds under the individuals with disabilities education act.

(d) "Department" means the state department of education.

(e) "Departmentalize" means a delivery system in which 2 or more special education teachers teach groups of students with disabilities by instructional content areas.

##### **R 340.1701b Definitions; I to P.**

**Rule 1b.** As used in these rules:

(a) "Instructional services" means services provided by teaching personnel that are specially designed to meet the unique needs of a student with a disability. These may be provided by any of the following:

(i) An early childhood special education teacher under R 340.1755.

(ii) A teacher consultant under R 340.1749.

(iii) A teacher of the speech and language impaired under R 340.1745.

(iv) A teacher providing instruction to students with disabilities who are homebound or hospitalized.

(v) A teacher providing instruction to students who are placed in juvenile detention facilities under R 340.1757.

(b) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating a student suspected of having a disability. The team shall include at least 1 special education teacher or other specialist who has knowledge of the suspected disability.

(c) "Normal course of study" means a general or a special education curriculum leading to a high school diploma.

(d) "Occupational therapy" means therapy provided by a therapist who has been registered by the American occupational therapy association or an occupational therapy assistant who has been certified by the American occupational therapy association and who provides therapy under the supervision of a registered occupational therapist.

(e) "Parent" means any of the following:

(i) A natural or adoptive parent of a student or youth with a disability.

(ii) A guardian, but not the state, if the student or youth with a disability is a ward of the state.

(iii) A person acting in the place of a parent, such as a grandparent or stepparent with whom the student or youth with a disability lives or a person who is legally responsible for the welfare of a student or youth with a disability.

(iv) A surrogate parent who has been appointed in accordance with state board of education policy.

(v) A foster parent if both of the following provisions are satisfied:

(A) The natural parent's authority to make educational decisions on behalf of the student or youth with a disability has been extinguished under state law. The foster parent satisfies all of the following provisions:

(1) Has an ongoing, long-term parental relationship with the student or youth with a disability.

(2) Is willing to make the educational decisions required of parents.

(3) Has no interest that would conflict with the interests of the student or youth with a disability.

(vi) The affected student or youth with a disability when the student or youth with a disability reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.

(f) "Parent advisory committee" means a committee of parents of students with disabilities of a particular intermediate school district appointed by the board of that district under R 340.1838.

(g) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 et seq. or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.

### **R 340.1701c Definitions; R to Y.**

**Rule 1c.** As used in these rules:

(a) "Related services" means services defined at 34 C.F.R. §300.24 and ancillary services as defined in 1976 PA 451, MCL 380.1 et seq., which is available for public review at the department and at intermediate school districts.

(b) "Services" means instructional or related services as defined in these rules.

(c) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique educational needs of the student with a disability and to develop the student's maximum potential. Special education includes instructional services defined in R 340.1701b(a) and related services.

(d) "Youth placed in a juvenile detention facility" means a student who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.

**R 340.1702 "Student with a disability" defined.**

**Rule 2.** "Student with a disability" means a person who is determined by an individualized education program team or a hearing officer to have 1 or more of the impairments specified in this part that necessitates special education or related services, or both, who is not more than 25 years of age as of September 1 of the school year of enrollment, who has not completed a normal course of study, and who has not graduated from high school. A student who reaches the age of 26 years after September 1 is a "student with a disability" and entitled to continue a special education program or service until the end of that school year.

**R 340.1703 Rescinded.**

**R 340.1704 Rescinded.**

**R 340.1705 Cognitive impairment; determination.**

**Rule 5.** (1) Cognitive impairment shall be manifested during the developmental period and be determined through the demonstration of all of the following behavioral characteristics:

(a) Development at a rate at or below approximately 2 standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement will not apply if the student is not of an age, grade, or mental age appropriate for formal or standardized achievement tests.

(c) Lack of development primarily in the cognitive domain.

(d) Impairment of adaptive behavior.

(e) Adversely affects a student's educational performance.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist.

**R 340.1706 Emotional impairment; determination; evaluation report.**

**Rule 6.** (1) Emotional impairment shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the student's education to the extent that the student cannot profit from learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

(a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

(b) Inappropriate types of behavior or feelings under normal circumstances.

(c) General pervasive mood of unhappiness or depression.

(d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) Emotional impairment also includes students who, in addition to the characteristics specified in subrule (1) of this rule, exhibit maladaptive behaviors related to schizophrenia or similar disorders. The term "emotional impairment" does not include persons who are socially maladjusted, unless it is determined that the persons have an emotional impairment.

(3) Emotional impairment does not include students whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) When evaluating a student suspected of having an emotional impairment, the multidisciplinary evaluation team report shall include documentation of all of the following:

(a) The student's performance in the educational setting and in other settings, such as adaptive behavior within the broader community.

(b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.

(c) The intervention strategies used to improve the behaviors and the length of time the strategies were utilized.

(d) Relevant medical information, if any.

(5) A determination of impairment shall be based on data provided by a multidisciplinary evaluation team, which shall include a comprehensive evaluation by both of the following:

(a) A psychologist or psychiatrist.

(b) A school social worker.

#### **R 340.1707 Hearing impairment explained; determination.**

**Rule 7.** (1) The term "hearing impairment" is a generic term which includes both students who are deaf and those who are hard of hearing and refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance. "Deafness" means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification. The term "hard of hearing" refers to students with hearing impairment who have permanent or fluctuating hearing loss which is less severe than the hearing loss of students who are deaf and which generally permits the use of the auditory channel as the primary means of developing speech and language skills.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an audiologist and an otolaryngologist or otologist.

#### **R 340.1708 Visual impairment explained; determination.**

**Rule 8.** (1) A visual impairment shall be determined through the manifestation of both of the following:

(a) A visual impairment which, even with correction, interferes with development or which adversely affects educational performance. Visual impairment includes both partial sight and blindness.

(b) One or more of the following:

(i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.

(ii) A peripheral field of vision restricted to not more than 20 degrees.

(iii) A diagnosed progressively deteriorating eye condition.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an ophthalmologist or optometrist.

(3) If a student cannot be tested accurately for acuity, then functional visual assessments conducted by a teacher certified in visual impairment may be used in addition to the medical evaluation for determination of impairment.

(4) For students with visual impairment who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of students with visual impairment in conducting orientation and mobility training activities.

#### **R 340.1709 "Physical impairment" defined; determination.**

**Rule 9.** (1) "Physical impairment" means severe orthopedic impairment that adversely affects a student's educational performance.

(2) A determination of disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include assessment data from 1 of the following persons:

(a) An orthopedic surgeon.

- (b) An internist.
- (c) A neurologist.
- (d) A pediatrician.
- (e) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

**R 340.1709a "Other health impairment" defined; determination.**

**Rule 9a.** (1) "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, which results in limited alertness with respect to the educational environment and to which both of the following provisions apply:

- (a) Is due to chronic or acute health problems such as any of the following:
  - (i) Asthma.
  - (ii) Attention deficit disorder.
  - (iii) Attention deficit hyperactivity disorder.
  - (iv) Diabetes.
  - (v) Epilepsy.
  - (vi) A heart condition.
  - (vii) Hemophilia.
  - (viii) Lead poisoning.
  - (ix) Leukemia.
  - (x) Nephritis.
  - (xi) Rheumatic fever.
  - (xii) Sickle cell anemia.
- (b) The impairment adversely affects a student's educational performance.
- (2) A determination of disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include 1 of the following persons:
  - (a) An orthopedic surgeon.
  - (b) An internist.
  - (c) A neurologist.
  - (d) A pediatrician.
  - (e) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

**R 340.1710 "Speech and language impairment" defined; determination.**

**Rule 10.** (1) A "speech and language impairment" means a communication disorder that adversely affects educational performance, such as a language impairment, articulation impairment, fluency impairment, or voice impairment.

(2) A communication disorder shall be determined through the manifestation of 1 or more of the following speech and language impairments that adversely affects educational performance:

- (a) A language impairment which interferes with the student's ability to understand and use language effectively and which includes 1 or more of the following:
  - (i) Phonology.
  - (ii) Morphology.
  - (iii) Syntax.
  - (iv) Semantics.
  - (v) Pragmatics.
- (b) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.
- (c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.
- (d) Voice impairment, including inappropriate pitch, loudness, or voice quality.
- (3) Any impairment under subrule (2) (a) of this rule shall be evidenced by both of the following:

(a) A spontaneous language sample demonstrating inadequate language functioning.  
 (b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which indicate inappropriate language functioning for the student's age.

(4) A student who has a communication disorder, but whose primary disability is other than speech and language may be eligible for speech and language services under R 340.1745(a).

(5) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a teacher of students with speech and language impairment under R 340.1796 or a speech and language pathologist qualified under R 340.1792.

**R 340.1711 "Early childhood developmental delay" defined; determination.**

**Rule 11.** (1) "Early childhood developmental delay" means a child through 7 years of age whose primary delay cannot be differentiated through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716 and who manifests a delay in 1 or more areas of development equal to or greater than 1/2 of the expected development. This definition does not preclude identification of a child through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716.

(2) A determination of early childhood developmental delay shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team.

**R 340.1713 "Specific learning disability" defined; determination.**

**Rule 13.** (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual impairments, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems that are primarily the result of a visual, hearing, or motor impairment, of a cognitive impairment, of an emotional impairment, of autism, or of environmental, cultural, or economic disadvantage.

(2) The individualized education program team may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:

- (a) Oral expression.
- (b) Listening comprehension.
- (c) Written expression.
- (d) Basic reading skill.
- (e) Reading comprehension.
- (f) Mathematics calculation.
- (g) Mathematics reasoning.

(3) The individualized education program team shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:

- (a) A visual, hearing, or motor impairment.
- (b) Cognitive impairment.
- (c) Emotional impairment.
- (d) Autism.
- (e) Environmental, cultural, or economic disadvantage.



(4) At least 1 individualized education program team member other than the student's general education teacher shall observe the student's academic performance in the general education classroom setting. For a child who is less than school age or who is out of school, an individualized education program team member shall observe the child in an environment appropriate for a child of that age.

(5) For a student suspected of having a specific learning disability, the documentation of the individualized education program team's determination of eligibility shall include a statement concerning all of the following:

- (a) Whether the student has a specific learning disability.
- (b) The basis for making the determination.
- (c) The relevant behavior noted during the observation of the student.
- (d) The relationship of that behavior to the student's academic functioning.
- (e) The educationally relevant medical findings, if any.
- (f) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services.
- (g) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(6) Each individualized education program team member shall certify, in writing, whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.

(7) A determination of learning disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:

(a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

#### **R 340.1714 Severe multiple impairment; determination.**

**Rule 14.** (1) Students with severe multiple impairments shall be determined through the manifestation of either of the following:

(a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist and, depending upon the disabilities in the physical domain, the multidisciplinary evaluation team participants required in R 340.1707, R 340.1708, or R 340.1709, R 340.1709a, or R 340.1716.

**R 340.1715 "Autism" defined; determination.**

**Rule 15.** (1) "Autism" means a lifelong developmental disability that is typically manifested before 30 months of age. "Autism" is characterized by disturbances in the rates and sequences of cognitive, affective, psychomotor, language, and speech development.

(2) The manifestation of the characteristics specified in subrule (1) of this rule and all of the following characteristics shall determine if a student has autism:

- (a) Disturbance in the capacity to relate appropriately to people, events, and objects.
- (b) Absence, disorder, or delay of language, speech, or meaningful communication.
- (c) Unusual or inconsistent response to sensory stimuli in 1 or more of the following:
  - (i) Sight.
  - (ii) Hearing.
  - (iii) Touch.
  - (iv) Pain.
  - (v) Balance.
  - (vi) Smell.
  - (vii) Taste.
  - (viii) The way a student holds his or her body.

(d) Insistence on sameness as shown by stereotyped play patterns, repetitive movements, abnormal preoccupation, or resistance to change.

(3) To be eligible under this rule, there shall be an absence of the characteristics associated with schizophrenia, such as delusions, hallucinations, loosening of associations, and incoherence.

(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team. The team shall include, at a minimum, a psychologist or psychiatrist, an authorized provider of speech and language services under R 340.1745(d), and a school social worker.

**R 340.1716. "Traumatic brain injury" defined; determination.**

**Rule 16.** (1) "Traumatic brain injury" means an acquired injury to the brain which is caused by an external physical force and which results in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairment in 1 or more of the following areas:

- (a) Cognition.
- (b) Language.
- (c) Memory.
- (d) Attention.
- (e) Reasoning.
- (f) Behavior.
- (g) Physical functions.
- (h) Information processing.
- (i) Speech.

(2) The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

(3) A determination of disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an assessment from a family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

**PART 2.**  
**EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT,**  
**AND DUE PROCESS PROCEDURES**

**R 340.1721 Parental consent for initial evaluation; contents of notice; refusal to consent or respond.**

**Rule 21.** (1) Within 10 calendar days of receipt of a referral of a student suspected of having a disability, and before any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall notify the parent and shall request written consent to evaluate. The written notice shall contain both of the following:

- (a) The reason or reasons an evaluation is sought and the nature of the evaluation.
- (b) A description of the types of special education programs and services currently available within the intermediate school district.

**R 340.1721a Evaluation procedure.**

**Rule 21a.** (1) Each student suspected of having a disability shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701b(b). If an initial evaluation review is conducted by the individualized education program team, then the multidisciplinary evaluation team shall complete the evaluation as determined by the individualized education program team in addition to requirements as defined in R 340.1705 to R 340.1716 as applicable to the suspected impairment.

(2) The multidisciplinary evaluation team shall do both of the following:

- (a) Complete a diagnostic evaluation.
- (b) Make a recommendation of eligibility and prepare a written report to be presented to the individualized education program team by the appointed multidisciplinary evaluation team member. The report shall include information needed to determine a student's present level of educational performance and educational needs of the student. Information presented to the individualized education program team shall be drawn from a variety of sources, including parent input.

(3) Special education personnel who are authorized to conduct evaluations of students suspected of having a disability may provide prereferral consultation to general education personnel in accordance with procedures established by the department.

**R 340.1721b Individualized education program team participants.**

**Rule 21b.** (1) The superintendent or his or her designee shall appoint participants to an individualized education program team and shall invite the parents to be participants.

(2) Upon request of the parent, a representative of the school district of residence shall be invited to attend the individualized education program team meeting if the district of residence has authorized the operating district to conduct program team meetings.

**R 340.1721c Scheduling individualized education program team meeting; requesting parent participation.**

**Rule 21c.** (1) The school district of residence is responsible for conducting the initial individualized education program team meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized education program team meeting at a mutually agreed upon time and place.

(2) The time from referral or from receipt of parental consent to an initial evaluation to the completion of the individualized education program or the determination of ineligibility shall not be more than 30 school days. This time line begins upon receipt of the signed parental consent by the public agency requesting it and may be extended if agreed to by the parent and public agency.

**R 340.1721d Responsibilities of the individualized education program team.**

**Rule 21d.** Upon completing the individualized education program, the individualized education program team shall submit the individualized education program to the superintendent. The individualized education program shall not be restricted to the programs and services available.

**R 340.1721e Individualized education program team meeting; determination of eligibility for special education programs and services; individualized education program.**

**Rule 21e.** (1) The superintendent or his or her designee shall convene an individualized education program team meeting.

(2) An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the team, or provided by the parent or student who is disabled and shall include all of the following information, in writing:

(a) A statement of the student's present level of educational performance.

(b) A statement of annual goals, including short-term objectives.

(c) Appropriate objective criteria and evaluation procedures and schedules for determining whether the objectives are being achieved.

(3) The individualized education program team shall determine whether the student has a need for placement with a special education teacher who is endorsed in a particular disability category. This subrule takes effect on July 1, 2003.

(4) Any participant in the individualized education program team's deliberations who disagrees, in whole or in part, with the team's determination may indicate the reasons therefor on the team's individualized education program report or may submit a written statement to be attached to the report.

(5) The Michigan school for the deaf shall be considered a part of the total continuum of services for students with a hearing impairment. The resident district shall conduct the individualized education program team meeting that initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized education program team meeting. The state board of education shall adopt procedures for placement at the Michigan school for the deaf.

(6) The Michigan school for the blind shall be considered a part of the total continuum of services for students with a visual impairment. The resident district shall conduct the individualized education program team meeting that initiates an assignment into the Michigan school for the blind. Representatives of the intermediate school district of residence and the Michigan school for the blind shall be invited to participate in the individualized education program team meeting. The state board of education shall adopt procedures for placement at the Michigan school for the blind.

**R 340.1722 Placement in special education programs and services.**

**Rule 22.** (1) The individualized education program team determines the educational placement of a student with a disability in programs and services from a continuum of alternative placements, such as instruction in general education classes, special classes or special instruction in general education classes, special classes or special schools, home instruction in hospitals and institutions, resource rooms, or itinerant instruction with general education class placements.

(2) The superintendent or his or her designee shall appoint a staff person to be responsible for the implementation of the individualized education program, including services provided by other agencies. The person shall be either the principal of the building where the primary educational program is provided to the student who has a disability or other staff person who is generally accessible to the staff and who will be working with the student who has a disability.

**R 340.1722a Implementation of individualized education program.**

**Rule 22a.** (1) The superintendent of the school district of residence, upon receipt of the individualized education program, shall, within 7 calendar days, either appeal under R 340.1724 or provide written notice to the parent of the agency's intent to implement special education programs and services. The notice shall identify where the programs and services are to be provided and when the individualized education program begins.

(2) The parent, upon receipt of notification from the superintendent, shall have the right, at any time, to appeal the decision under R 340.1724. If the parent does not appeal, then the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.

(3) If a student with a disability is to be provided special education or related services for the first time, then the parent has 10 calendar days after receipt of the notice from the superintendent to provide the public agency with written consent to provide special education programs and services. If the parent refuses consent or does not respond, then the public agency has the right to request a hearing under R 340.1724.

**R 340.1722c Rescinded.****R 340.1722d Rescinded.****R 340.1722e Previous enrollment in special education.**

**Rule 22e.** (1) If a student who currently receives special education programs or services enrolls in a new school district, then the new school district shall do either of the following:

(a) With the parent's consent, immediately implement the student's current individualized education program.

(b) With the parent's consent, immediately place the student in an appropriate program or service and convene an individualized education program team meeting within 30 school days to develop an individualized education program.

(2) If the parent does not provide consent for placement, then the school district will implement the student's current individualized education program to the extent possible and an individualized education program team meeting shall be convened to develop a new individualized education program as soon as possible, but not later than 30 school days.

**R 340.1722f Rescinded.****R 340.1723 Rescinded.****R 340.1723a Rescinded.****R 340.1723b Rescinded.****R 340.1723c Right to independent educational evaluation.**

**Rule 23c.** (1) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information shall include all of the following:

(a) Criteria regarding credentials for qualified examiners.

(b) Suggested sources and locations.

(c) Procedures for reimbursement.

(d) Reasonable expected costs.

(e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.

(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. The parent shall submit the parent's disagreement and request in written, signed, and dated form. However, the public agency may initiate a hearing under R 340.1724 to show that its evaluation is appropriate. The public agency shall respond, in writing, to the request within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure under R 340.1724. If the hearing officer determines that the evaluation is appropriate, then the parent still has the right to an independent educational evaluation, but not at public expense.

(3) The school district shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent educational evaluation.

(4) An independent educational evaluation shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner or examiners are agreeable to the parent.

#### **R 340.1724 Impartial due process hearing.**

**Rule 24.** (1) A parent, the school district of residence, the school district of operation, the Michigan schools for the deaf and blind, or the department may initiate a hearing on any of the matters relating to the identification, evaluation, educational placement of the student, or the provision of a free appropriate public education. The party initiating a hearing shall notify the other parties, in writing, of its intent to initiate the hearing.

(2) The hearing shall be arranged or conducted by the district of residence and the district of residence shall pay all direct costs incurred by the school district as a result of arranging or conducting the hearing.

(3) Before the appointment or selection of a hearing officer, the hearing may be delayed or terminated upon written stipulation by the public agency and the parent. The agency responsible for the hearing shall submit the written stipulation to the department. After the appointment or selection of a hearing officer, the hearing may be delayed with the approval of the hearing officer or terminated upon written stipulation of the public agency and the parent. A copy of the stipulation to terminate shall be provided to the hearing officer and to the department.

(4) Each public agency responsible for arranging or conducting a hearing shall immediately forward to the department 2 copies of the hearing decision; 1 with all personal identifiers pertaining to the student deleted and 1 with personal identifiers included.

(5) The department shall send a copy of the decision to the intermediate school district with a notice to inform the department that the decision has been implemented.

(6) Any party who is aggrieved by the findings and the decision of a hearing conducted under this rule may appeal to the department within 25 calendar days of receipt of the decision for a state review. The appealing party shall send a copy of the party's appeal to the other party. The department of education shall adopt procedures for appointment of review officers and an appeal process.

(7) In the absence of an appeal, unless otherwise specified in the hearing officer's decision or the reviewing official's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

#### **R 340.1724a Impartial hearing officer; appointment.**

**Rule 24a.** (1) The superintendent of the public agency shall contract for the services of an impartial hearing officer who is mutually agreeable to both parties or who has been appointed by the department. If the parent and the public agency cannot agree on a hearing officer within 14 calendar days following the hearing request, then the superintendent shall immediately request that the department appoint an impartial hearing officer according to procedures established by the department.

(2) A hearing shall not be conducted by an employee or board member of the involved local school district, of another local school district within the same intermediate school district, of a public school academy within the same intermediate school district, or of the intermediate school district of which the involved local school district is a part.

(3) Each public agency shall keep a current department-developed and department-distributed list of the persons trained as hearing officers according to procedures established by the department who serve as hearing officers. This list shall be provided to parents upon any request for a hearing. The list shall include a statement of qualifications of each of the listed persons.

#### **R 340.1724b Rescinded.**

#### **R 340.1724c Expedited hearings.**

**Rule 24c.** (1) The expedited hearing process shall be a 1-tier hearing process. The superintendent or chief executive officer of each public agency shall contract for the services of a mutually agreed upon impartial special education hearing officer within 5 business days of receipt of a written request for an expedited hearing.

(2) If the parties to an expedited hearing cannot mutually agree on the selection of an impartial special education hearing officer, then the public agency shall request the department to immediately appoint a special education hearing officer from the current department-developed and department-distributed list of the persons who serve as hearing officers as required by R 340.1724a(3).

(3) Expedited hearings shall address only those issues of disagreement relating to any of the following:

(a) A determination that a student's behavior was not a manifestation of the student's disability.

(b) A decision regarding the provision of an appropriate interim alternative educational setting.

(c) Seeking an interim alternative setting for not more than 45 days for a student who may demonstrate potential harmful or injurious behavior to himself, herself, or others.

(4) The parties to an expedited hearing shall, within 5 business days before the hearing, provide the other party with a list of potential witnesses and any documents to be used as evidence, including, but not limited to, any pertinent evaluations and recommendations.

(5) The special education hearing officer has the authority to rule on a request to bar any evidence to be used in an expedited hearing not disclosed to the other party at least 5 business days before the expedited hearing only when the introduction of evidence is disputed by the other party.

(6) The special education hearing officer shall render and mail a final decision to all parties within 45 calendar days after the receipt of the written request for an expedited hearing from the superintendent or chief executive officer or his or her designee without exceptions or time extensions.

(7) Any party to the expedited hearing who is aggrieved by the decision of the hearing officer may appeal the decision to a court of competent jurisdiction.

#### **R 340.1724d Mediation.**

**Rule 24d.** (1) A parent or public agency may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties of a dispute that might be the subject of a complaint under part 8 of the rules or a due process hearing under R 340.1724 or R 340.1724(c).

(2) The mediator shall be subject to mutual agreement by the parties.

(3) The state board shall approve procedures regarding the mediation process.

#### **R 340.1725 Rescinded.**

**R 340.1725a Rescinded.**

**R 340.1725b Rescinded.**

**R 340.1725c Rescinded.**

**R 340.1725d Rescinded.**

**R 340.1725e Hearing officer or state reviewing official; duties and authority.**

**Rule 25e.** (1) The hearing officer or state reviewing official has the authority to do all of the following:

- (a) Administer oaths and affirmations.
- (b) Sign and issue subpoenas requiring the attendance and giving of testimony by witnesses and the production of documents.
- (c) Provide for the taking of testimony.
- (d) Require a prehearing conference, if appropriate, to consider and take action regarding any of the following:
  - (i) The formulation and simplification of the issues.
  - (ii) Admissions of fact and documents that will avoid unnecessary testimony.
  - (iii) The need and scheduling for the filing of motions, briefs, and dates for further conferences and the hearing.
- (iv) Settlement, which may include encouraging the use of mediation or other alternative dispute resolution options.
- (v) The filing and disposition of requests or motions.
- (vi) Establishing a reasonable limit on the time allowed for presenting evidence.
- (vii) Other matters as may facilitate the disposition of the hearing.
- (e) Control the conduct of parties or participants in the hearing for the purpose of assuring an orderly procedure.
- (f) Grant a specific extension of time at the request of either party for good cause.
- (2) The hearing officer shall disclose to both parties any relationship of a professional or personal nature that might have a bearing on the hearing officer's ability to conduct a fair hearing or render an impartial decision and shall consider motions to disqualify himself or herself.
- (3) The hearing officer may admit and consider evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law.

**R 340.1725f Surrogate parent.**

**Rule 25f.** Each public agency shall appoint persons to serve as surrogate parents in accordance with procedures approved by the state board of education.



### PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES

#### **R 340.1732 Designation of residency.**

**Rule 32.** (1) A student with a disability is a resident of 1 school district in which the student has enrolled, and in which at least 1 of the student's parents resides. If the parents are legally separated or divorced and reside in different school districts, then the student with a disability may enroll in 1 of the school districts where either parent resides, regardless of the school district of residence of the parent having custody. The school district in which the student has enrolled remains the student's resident school district when either of the following occurs:

(a) The student with a disability sleeps, keeps personal effects, and regularly lodges in a school district other than the school district in which a parent resides, for an educational purpose, not for the purpose of securing a suitable home.

(b) The student with a disability is lodged in a school district other than the school district in which a parent resides as directed by an agency or institution under the auspices of a court, the department of community health, or the family independence agency in a facility such as a private home, group home, or a private or public institution.

(2) Both of the following situations are exceptions to the provisions of subrule (1) of this rule:

(a) If a guardian has been appointed to provide the student with a disability with a suitable education, then the student is a resident of the school district in which the guardian resides.

(b) If the student with a disability is under the control or custody of the family division of circuit court and is a ward of the state, has no living parent or guardian, or the parents reside out of the state, then the student is a resident of the school district in which the family division of circuit court is located.

(3) A student with a disability who is not covered in subrule (1) or (2) of this rule is a resident of the school district in which the student habitually sleeps, keeps personal effects, and has a regular place of lodging for the purpose of securing a suitable home and not solely for an educational purpose.

(4) Notwithstanding the provisions of subrules (1), (2), and (3) of this rule, all of the following provisions apply when the student with a disability is placed under the order or direction of a court or child placement agency and is lodged in a state institution, licensed foster home, licensed nursing home, or licensed group residential facility:

(a) The school district in which the institution, home, or facility is located shall provide for the delivery of special education programs and services to the student with a disability under section 1751 of 1976 PA 451, MCL 380.1751.

(b) The student with a disability shall be deemed to be a resident of the school district for the purpose of record maintenance required by 1976 PA 451, MCL 380.1757.

(c) For all other purposes, including funding, the student's residence shall be determined under subrules (1), (2), and (3) of this rule.

(5) If a disagreement occurs between 2 or more school districts as to the residency of a student with a disability, then all of the following procedures apply:

(a) Notice shall be sent to the department by a school district involved. The notice shall include all of the following information:

(i) The names of all of the school districts alleged as a resident school district.

(ii) The name of the student involved.

(iii) The name and address of the parent or guardian, or address of the student if the student is over 18 years of age.

(b) The department or its representative shall immediately notify the school districts involved and the parent, guardian, or student of the receipt of notice of disagreement.

(c) Within 7 calendar days of receipt of notice from the department, all parties shall provide the department with a written statement of their position and supporting facts.

(d) Within 14 calendar days of the receipt of a notice of a disagreement from a school district, the department shall investigate the matter, consider information received from the

parties involved, and make a determination as to the residency of the student. A copy of the determination shall be immediately sent to each party involved.

(e) Upon a written demonstration of just cause by any party involved, the state board of education or its designee may extend the time limits set forth in this subrule.

**R 340.1733 Program and service requirements; effective dates.**

**Rule 33.** An intermediate school district, local school district, public school academy, and any other agency shall adhere to all of the following general requirements for all programs and services for students with disabilities:

(a) Special education classrooms or areas where related services are provided shall have at least the same average number of square feet per student, light, ventilation, and heat conditions as provided for general education students in the school district.

(b) Programs for students with severe cognitive impairment and severe multiple impairments which have students under 16 years of age shall not exceed a 6-year age span at any one time.

(c) All other special education programs which have students under 16 years of age and which are operated in separate facilities shall not exceed a 4-year age span at any one time.

(d) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in elementary buildings attended by children who are nondisabled, shall not exceed, at any one time, a 6-year age span or the age span of the students who are nondisabled in the building, whichever is less.

(e) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in secondary buildings attended by students who are nondisabled, shall not exceed, at any one time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. The term "nondisabled" shall not include persons participating in adult education programs.

(f) Programs for students with severe cognitive impairment, severe multiple impairments, and moderate cognitive impairment shall comply with subdivisions (a), (b), (c), (d), and (e) of this rule unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.

(g) Students with disabilities qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in general education programs, in addition to those supplies and equipment necessary to implement a student's individualized education program.

(h) Intermediate school districts, local school districts, public school academies, or a combination of such agencies in cooperation with public and private entities, shall provide or contract for the provision of transition services. Special education teachers shall be assigned to supervise such services. Professional special education personnel, a transition coordinator, or both, shall coordinate transition services.

(i) For worksite-based learning, a written agreement/plan is required and shall be signed by the student, parent, school, and worksite representative. The agreement shall set forth all of the following information:

- (i) Expectations and standards of attainment.
- (ii) Job activities.
- (iii) Time and duration of the program.
- (iv) Wages to be paid to the student, if applicable.
- (v) Related instruction, if applicable.

The superintendent of the school district shall designate a staff member to visit the student's worksite at least once every 30 calendar days for the duration of the program to check attendance and student progress and assess the placement in terms of health, safety, and welfare of the student.

(j) Substitute instructional aides specified in R 340.1738, R 340.1739, and R 340.1748 shall be provided when assigned instructional aides are absent. In addition, teacher aides specified in R 340.1739 and R 340.1740 shall be provided when assigned teacher aides are absent.

(k) Secondary special education teachers shall teach either special education courses approved for graduation by the local education agency or special education courses within an approved special education curriculum.

#### **R 340.1734 Deviations from rules.**

**Rule 34.** (1) A deviation from these rules shall follow board-approved procedures and be requested, in writing, from the state board of education or its designee by an intermediate school district, local school district, or public school academy that operates or contracts for special education programs and services. A copy of the request shall be filed concurrently with the intermediate school district in which affected students with disabilities reside and all local constituent school districts in which the affected students with disabilities reside. A copy of the request shall be filed concurrently with the parent advisory committee of the intermediate school district that requests the deviation and the parent advisory committee of any intermediate school district in which affected students with disabilities reside.

(2) Within 7 days of receipt of the request, the intermediate school district shall review and inquire into the request and shall file, with the department, its position regarding the appropriateness of the request and its objections to, or endorsement of, the request, together with the rationale regarding its position.

(3) The state board of education or its designee shall initiate action within 30 calendar days of receipt of the request. The board or its designee may grant the request, in writing, for a period not to extend beyond the end of the current school year and upon such terms and conditions as it shall specify only when, in its judgment, the best interests of the students with disabilities affected by the deviation are served and good cause is shown.

(4) A deviation shall not be granted when the intent of the deviation is to exclude a student with a disability from, or deny a student with a disability participation in, a special education program or service that is required.

(5) A program deviation that is granted by the state board of education or its designee is public information. The affected intermediate school districts, constituent local school districts, or public school academies shall inform their involved personnel of granted deviations in any manner they deem appropriate. At a minimum, the parent advisory committee shall be informed of the disposition of the request.

(6) A deviation shall not be requested for the purpose of avoiding or postponing corrections directed by the department under part 8 of these rules.

(7) If a final decision to deny a deviation request is made, then the school district that makes the request shall correct the condition that precipitated the request and shall forward to the department, office of special education and early intervention services, within 30 school days of the denial, its assurance that the matter is now in compliance with the respective rule.

(8) Nothing in this rule or any other provision of statute or regulation shall permit the state board of education to waive any of the requirements of Part B of the individuals with disabilities education act, as amended, 20 U.S.C. §1400 et seq.

#### **R 340.1736 Rescinded.**

#### **R 340.1737 Rescinded.**

**R 340.1738 Programs for students with severe cognitive impairment.**

**Rule 38.** Programs for students with severe cognitive impairment shall be operated as follows:

- (a) There shall be 1 teacher and 2 instructional aides for a maximum of 12 students. The maximum number of students may be extended to 15 if an additional instructional aide is assigned with the placement of the thirteenth student. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for students with severe cognitive impairment.
- (b) Programs for students with severe cognitive impairment shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.
- (c) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.
- (d) Instructional aides shall work under the supervision of the teacher and assist in the student's daily training program.
- (e) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of students with severe cognitive impairment.
- (f) A registered nurse shall be reasonably available.

**R 340.1739 Programs for students with moderate cognitive impairment.**

**Rule 39.** Programs for students with moderate cognitive impairment shall be operated as follows:

- (a) There shall be 1 teacher and 1 teacher aide for a maximum of 15 students.
- (b) There shall be 1 lead teacher and a maximum of 3 instructional aides for a maximum of 30 students, with not more than 10 students for each aide.

**R 340.1740 Programs for students with mild cognitive impairment.**

**Rule 40.** Programs for students with mild cognitive impairment shall be operated as follows:

- (a) Elementary programs for students with mild cognitive impairment shall serve not more than 15 different students. When an elementary program for students with mild cognitive impairment has 12 or more students in the room at one time, an aide shall be assigned to the program.
- (b) Secondary programs for students with mild cognitive impairment shall have not more than 15 different students in the classroom at any one time and the teacher shall be responsible for the educational programming for not more than 15 different students.

**R 340.1741 Programs for students with emotional impairment.**

**Rule 41.** Programs for students with emotional impairment shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

**R 340.1742 Programs for students with hearing impairment.**

**Rule 42.** Programs and services for students with hearing impairment shall be operated as follows:

- (a) A special class with 1 teacher shall have an enrollment of not more than 7 students.
- (b) Group amplification devices deemed necessary for instruction by the individualized education program team shall be provided. The public agency shall ensure that the amplification devices worn by hearing impaired children in school are functioning properly.

**R 340.1743 Programs for students with visual impairment.**

**Rule 43.** Programs and services for students with visual impairment shall be determined by the severity and multiplicity of the impairments. A special class with 1 teacher shall have an enrollment of not more than the equivalent of 8 full-time students, and the teacher shall be responsible for the educational programming for not more than 10 different students. The public agency shall ensure that low vision aids, excluding prescription eye glasses, are available and functioning properly.

**R 340.1744 Programs for students with physical impairment or other health impairment.**

**Rule 44.** (1) Programs for students with physical impairment or other health impairment shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

(2) Special classroom units serving students with physical or other health impairment shall provide not less than 60 square feet of floor space per person.

**R 340.1745 Services for students with speech and language impairment.**

**Rule 45.** All of the following provisions are specific requirements for speech and language services:

(a) The speech and language services provided by an authorized provider of speech and language services shall be based on the needs of a student with a disability as determined by the individualized education program team after reviewing a diagnostic report provided by an authorized provider of speech and language services.

(b) The determination of caseload size for an authorized provider of speech and language services shall be made by the authorized provider of speech and language services in cooperation with the district director of special education, or his or her designee, and the building principal or principals of the school or schools in which the students are enrolled. Caseload size shall be based upon the severity and multiplicity of the disabilities and the extent of the service defined in the collective individualized education programs of the students to be served, allowing time for all of the following:

- (i) Diagnostics.
- (ii) Report writing.
- (iii) Consulting with parents and teachers.
- (iv) Individualized education program team meetings.
- (v) Travel.

(c) Individual caseloads of authorized providers of speech and language services shall not exceed 60 different persons and shall be adjusted based on factors identified in subdivision (b) of this rule. Students being evaluated shall be counted as part of the caseload.

(d) An authorized provider of speech and language impaired services shall be either a teacher of students with speech and language impairment under R 340.1781, R 340.1782, and R 340.1796, or a person with a master's degree, as qualified under R 340.1792.

**R 340.1746 Homebound and hospitalized services.**

**Rule 46.** Specific requirements for homebound and hospitalized services are as follows:

(a) Homebound services shall be initiated within 15 school days after verification, by a licensed physician, of a medical impairment which requires the eligible special education student to be confined to the home. Such verification shall indicate the anticipated duration of the required confinement.

(b) Hospital service shall be provided for eligible special education students who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.

(c) A special education teacher employed for homebound or hospital services, or for a combination of these services, shall be assigned not more than 12 students at any one time.

(d) Progress reports for each person shall be recorded pursuant to the intermediate school district plan.

(e) Students receiving homebound or hospital services shall receive a minimum of 2 nonconsecutive hours of instruction per week. Related services personnel may supplement, but not substitute for, the teacher's instruction.

(f) It is the responsibility of the district in which the hospital is located to make homebound and hospital services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering services or for contracting with the operating district and making payment for the services.

(g) Homebound and hospitalized services shall not be substituted for special education programs. Rather, the service provider shall endeavor, to the extent appropriate, to present curricular experiences which are being provided in the program where the student is currently enrolled.

**R 340.1747 Programs for students with specific learning disabilities.**

**Rule 47.** Programs for students with specific learning disabilities shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

**R 340.1748 Programs for students with severe multiple impairments.**

**Rule 48.** (1) Programs and services for students with severe multiple impairments shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for students with severe multiple impairments.

(2) Programs for students with severe multiple impairments shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.

(3) A registered nurse shall be reasonably available.

**R 340.1749 Teacher consultant; caseload; responsibilities.**

**Rule 49.** (1) The teacher consultant for special education shall do 1 or more of the following:

(a) Provide instructional services to students who are enrolled in special education programs. Instructional services are supportive of the special education teacher. A teacher consultant shall not grade, give credit for, or teach a general education or a special education subject, class, or course.

(b) Provide instructional services to a student whose disability is such that the student may be educated effectively within a general education classroom if this service is provided to the student. Instructional services are supportive of the general education teacher. The teacher consultant shall not grade, give credit for, or teach a general education subject, class, or course.

(c) Provide consultation to education personnel on behalf of students with disabilities on the consultant's caseload.

(d) Work as a member of a multidisciplinary evaluation team to assist in the evaluation of the educational needs of persons suspected of being disabled.

(2) The teacher consultant shall carry an active caseload of not more than 25 students with disabilities. All students served under this rule shall be counted as part of the caseload. In establishing the caseload, consideration shall be given to time for all of the following:

(a) Instructional services.

(b) Evaluation.

(c) Consultation with special and general education personnel.

- (d) Report writing.
- (e) Travel.
- (3) The teacher consultant shall not serve in supervisory or administrative roles.

**R 340.1749a Elementary level resource program.**

**Rule 49a.** (1) A special education elementary level resource program may be provided by a special education teacher.

(2) The elementary resource teacher shall serve not more than 10 students at any one time and not more than 18 different students and shall do either or both of the following:

(a) Provide direct instruction to students on the resource teacher's caseload and may assign grades or other evaluative measures for this instruction.

(b) Provide support to the general education classroom teachers to whom special education students on the resource teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The elementary resource teacher may provide supplemental instruction to students on his or her caseload.

(4) The elementary resource teacher may evaluate general education students within the same building who are suspected of having a disability and, therefore, may serve on the initial multidisciplinary evaluation team. The resource teacher shall be responsible for the evaluation of not more than 2 students at one time. Time shall be allocated to the resource teacher to carry out this responsibility.

(5) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

**R 340.1749b Secondary level resource program.**

**Rule 49b.** (1) A special education secondary level resource program may be provided by a special education teacher.

(2) A secondary resource teacher shall serve not more than 10 students at any one time and have a caseload of not more than 20 different students and shall do either or both of the following:

(a) Provide direct instruction for special education courses approved for graduation by the local educational agency. The teacher may assign grades or other evaluative measures for this instruction.

(b) Provide support to the general education classroom teachers to whom special education students on the resource room teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The secondary resource teacher may provide supplemental instruction to students on his or her caseload who are enrolled in general education classes. The teacher shall not teach a class and offer tutorial assistance at the same time.

(4) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

**R 340.1749c Departmentalization of special education programs.**

**Rule 49c.** (1) A school with more than 1 special education teacher may departmentalize.

(2) Each teacher shall teach only 1 local education agency approved special education course per period.

(3) Each teacher may serve more than the students assigned to his or her caseload; however, the total number of students served cannot exceed the combined caseloads of the participating teachers.

(4) Each teacher shall serve not more than an average of 10 students per class period per instructional day.

**R 340.1750 Director of special education.**

**Rule 50.** (1) Local school districts or public school academies may employ, or contract for the services of, a not less than half-time director of special education under the intermediate school district plan.

(2) Each intermediate school district shall employ, or contract for the services of, a full-time director of special education.

**R 340.1751 Supervisor of special education.**

**Rule 51.** (1) A local school district, public school academy, or intermediate school district may employ a supervisor of special education instructional programs. The person shall be employed not less than half-time.

**R 340.1753 Rescinded.**

**R 340.1754 Early childhood special education programs.**

**Rule 54.** All of the following provisions are specific requirements for early childhood special education programs for young children with disabilities or developmental delay:

(a) An early childhood special education program with an approved early childhood special education teacher may be provided to young children with disabilities or developmental delay who are 2 1/2 through 5 years of age based upon the child's individual needs as specified by the individualized education program team. Early childhood special education programs may include children under 2 1/2 years of age as specified by the individualized education program team.

(b) The program shall be available for a minimum of 360 clock hours and 144 days of instruction. If a preschool-aged child with a disability or developmental delay is placed in a nonspecial education program, then the individualized education program team shall consider the need for consultation by an early childhood special education teacher.

(c) The program shall have not more than 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 24 different students.

(d) Early childhood special education programs shall have a parent participation and education component.

**R 340.1755 Early childhood special education services.**

**Rule 55.** All of the following provisions are specific requirements for early childhood special education services for young children with disabilities or developmental delay in family and community settings:

(a) Services shall be provided by an approved early childhood special education teacher or approved related services staff to young children birth through age 5 based upon the child's individual needs as specified by the individualized education program or the combined individualized education/family service plan, as appropriate. Approved related services staff shall work under the supervision of an approved early childhood special education teacher.

(b) Services shall be provided for a minimum of 2 hours per week, but not less than 72 clock hours within 180 school days. Services may be provided in appropriate early childhood community or family settings.

(c) Early childhood special education services shall have a parent participation and education component.



**R 340.1756 Programs for students with severe language impairment.**

**Rule 56.** (1) A public agency may establish programs for students with severe language impairment. Specific requirements for these programs are as follows:

(a) A program for students with severe language impairment conducted by a teacher of programs for students with speech and language impairment shall serve only young children with disabilities or developmental delay or elementary students with severe language impairment.

(b) The program shall have not more than 10 students or young children with speech and language impairment in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 15 different children.

(2) Students or young children with speech and language impairment eligible for this program are those with a severe disability in the comprehension or expression of language as determined through the manifestation of all of the following characteristics which adversely affects educational performance:

(a) Demonstration of functioning within or above normal intellectual potential as measured by instruments that do not rely exclusively on oral direction or oral expression.

(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which clearly show language functioning not appropriate for the child's mental age.

(c) Oral language at less than the expected level based on the child's mental age in not less than 2 of the following areas:

(i) Phonology.

(ii) Morphology.

(iii) Syntax.

(iv) Semantics.

(v) Pragmatics.

(3) The programs for students with severe language impairment are not designed for children whose language impairment is primarily the result of autism or cognitive, emotional, hearing, visual, physical, or other health impairments as defined in part 1 of these rules.

**R 340.1757 Other related educational services for students placed in juvenile detention facilities.**

**Rule 57.** All of the following provisions are specific requirements for educational services conducted for students placed in juvenile detention facilities:

(a) Programs shall be initiated within 5 calendar days after admission. If a student placed in a juvenile detention facility is suspected of having a disability, then the procedure outlined in part 2 of these rules shall be immediately followed.

(b) Notification of educational placement shall be sent to the superintendent of the district of residence within 5 school days after the date of entry of a student into the educational program in a juvenile detention facility.

(c) Education reports for each student educated in a juvenile detention facility shall be sent by certified mail to the superintendent of the district of residence, with the consent of the parent, within 5 school days from the date of release from the facility.

(d) Special education reimbursed personnel may provide educational services for students who do not have disabilities and who are placed in the facility, if the programs comply with both of the following provisions:

(i) They are under the supervision of a teacher approved in the area of emotional impairment.

(ii) They have not more than 10 students in a class at any one time.

**R 340.1758 Programs for students with autism.**

**Rule 58.** (1) Specific requirements for programs for students with autism shall be provided using either of the following alternatives:

(a) Programs that consist of 1 classroom program for students with autism shall not have more than 5 students and shall be served by a teacher of students with autism. However, programs that consist of more than 1 classroom may have more than 5 students in a classroom, if the average student-to-teacher-and-aide ratio does not exceed 5 students to 1 teacher and 1 aide. A classroom with 3 or more students shall have 1 aide.

(b) A special education program described in the intermediate school district plan set forth in R 340.1832(d) and approved by the state board of education that assures the provision of educational programming for students with autism.

## PART 4. QUALIFICATIONS OF DIRECTORS AND SUPERVISORS

### **R 340.1771 Director of special education; education and experience requirements.**

**Rule 71.** (1) For full approval, a director of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful professional practice or administrative experience in special education, or a combination of practice and experience.
- (d) Thirty semester or equivalent hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency as related to special education in all of the following areas:

- (i) Program development and evaluation.
- (ii) Personnel staffing, supervision, and evaluation.
- (iii) Interpersonal relationships, communications, persuasion, and morale.
- (iv) Evaluation of inservice organization and management.
- (v) Budgeting, financing, and reporting.
- (vi) Parent relationships.
- (vii) School plant planning.
- (viii) Consultation.
- (ix) Research and grant writing.
- (x) Office management, including office automation.
- (xi) School-related legal activities and due process hearing.
- (xii) Computer-assisted management.

(e) One year of successful experience as a special education director in an approved special education program.

(f) Verification from a college or university approved for the preparation of special education directors which attests that the person has acquired the knowledge and competencies in subdivision (d) of this subrule and has demonstrated leadership ability and general knowledge of issues and problems in all disability areas of special education.

(2) A director of special education programs who has full approval status shall maintain full approval status indefinitely.

(3) For temporary approval, a director of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful professional practice or administrative experience in education, or a combination of practice and experience.

(d) Twelve semester or equivalent hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency related to special education in the areas designated in subrule (1)(d) of this rule.

(e) The college or university approved for the preparation of special education directors shall verify enrollment in the director of special education preparation program and the completion of the practicum specified in subdivision (d) of this subrule.

(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or equivalent hours of required credit toward full approval before the beginning of the next school year.

(5) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a director to gain full approval.

**R 340.1772 Supervisor of special education; education and experience requirements.**

**Rule 72.** (1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful experience in special education.
- (d) Twelve semester or equivalent hours of graduate credit in a college or university whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in all of the following areas:

- (i) Systematic study of curriculum.
- (ii) Administrative and supervisory procedures.
- (iii) Evaluation methods and procedures.
- (iv) Communication skills techniques.
- (v) Inservice education.
- (vi) Computer-aided instruction.

(e) One year of successful experience as a supervisor of special education in an approved special education program.

(f) Verification from a college or university approved for the preparation of special education supervisors relative to leadership, knowledge, and competency in the areas listed in subdivision (d) of this subrule.

(2) A supervisor of special education programs who has full approval status shall maintain full approval status indefinitely.

(3) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful experience in special education.
- (d) Verification from a college or university approved by the state board of education for preparation of special education supervisors of enrollment in the supervisor of special education program.

(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or equivalent hours of required credit toward full approval before the beginning of the next school year.

(5) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a supervisor to gain full approval.

**R 340.1773 Rescinded.**

**R 340.1774 Out-of-state applicants for supervisor or director; temporary approval.**

**Rule 74.** An applicant for temporary approval as a supervisor or director of special education who has been educated in another state shall present evidence of fulfilling all of the requirements established for applicants who have been educated in approved Michigan colleges and universities. The department shall establish procedures for the temporary approval of out-of-state applicants as supervisors or directors of special education.

## PART 5. QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

### **R 340.1781 Teachers of students with disabilities; endorsement requirements.**

**Rule 81.** (1) A teacher seeking an endorsement or full approval by the state board of education or its designee shall meet all of the following general skill requirements, in conjunction with those of R 340.1782 to R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799d, before being employed by an intermediate school district, local school district, public school academy, or other agency operating special education programs and services:

- (a) Theoretical foundations as follows:
  - (i) Understanding of human growth and development, which shall include all of the following:
    - (A) Typical and atypical development.
    - (B) Stages from conception to death.
    - (C) Affective, language, cognitive, and sensorimotor areas.
    - (D) Factors influencing development, including physiological, social, physical environment, and psychological.
  - (ii) Understanding of learning and teaching theories.
  - (iii) Knowledge of construction, interpretation, application, and limitation of standardized and nonstandardized assessment procedures.
  - (iv) Knowledge of disabilities and their educational implications.
- (b) Curriculum and instruction as follows:
  - (i) Understanding of curriculum design and instructional strategies.
  - (ii) Understanding of, and ability to adapt to, general and special curriculum and instructional strategies to meet individual learning styles.
- (c) Special education instructional systems as follows:
  - (i) Knowledge of program delivery systems, including all levels of service.
  - (ii) Understanding of individual and group management structures.
  - (iii) Understanding of effective use of school and outside resources in creating a positive learning environment.
  - (iv) Understanding a variety of systems for reporting and evaluating the effectiveness of an individual student's program.
  - (v) Understanding of the child study/team planning process.
  - (vi) Ability to translate comprehensive assessment data reflecting the student's current level of functioning into an individualized education program.
  - (vii) Understanding of how adaptive technology may be used to enhance the education of students with disabilities.
- (d) Communication/consultation as follows:
  - (i) Knowledge of institutional and administrative factors that facilitate or impede delivery of services.
  - (ii) Ability to effectively communicate the needs and rights of students with disabilities.
  - (iii) Ability to use interpersonal skills when working with parents, professionals, agencies, students, and other persons or groups.
  - (iv) Understanding the roles and organizational structures of general and special education and the part they play in providing total service for the student.
  - (v) Ability to serve in a consultative capacity with individuals and groups, including parents and students.
  - (vi) Ability to supervise and work with teacher aides, volunteers, and paraprofessionals.
- (e) Organizational, historical, and legal factors as follows:
  - (i) Knowledge of state and federal laws, rules, and regulations.
  - (ii) Understanding of due process and data privacy requirements.
  - (iii) Knowledge of historical and philosophical background of the education of students with disabilities and knowledge of attitudes toward students with disabilities.

(iv) Understanding of how to identify and access resources relevant to students with disabilities.

(f) Abilities basic to all special education preparation as follows:

(i) Ability to observe, analyze, and describe the instructional strategies being applied in an educational situation.

(ii) Ability to function as a member of a team in designing appropriate educational programs for students with disabilities.

(iii) Ability to apply team-designed strategies in an educational setting.

(iv) Ability to design and apply instructional strategies in an educational setting, including time management techniques.

(v) Ability to identify and use nonschool resources relevant to students with disabilities.

(vi) Ability to assess results of instruction.

(vii) Understanding of personal adjustment, prevocational and vocational needs, and opportunity for students with disabilities.

(viii) Ability to understand basic behavioral management concepts and demonstrate ability to develop, implement, and incorporate appropriate behavioral management techniques.

(ix) Understanding of preadolescent behavior.

(x) Understanding of adolescent behavior.

### **R 340.1782 Endorsed teachers of students with disabilities; additional requirements.**

**Rule 82.** An endorsed teacher of students with disabilities, in addition to meeting the specific requirements set forth in R 340.1786 to R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799c, shall comply with all of the following requirements:

(a) Possess a valid Michigan teacher's certificate.

(b) Possess a baccalaureate degree with a major in a specific special education area or have earned credit in course work equivalent to that required for a major.

(c) Possess an endorsement in special education that is valid in grades kindergarten through 12. Elementary or secondary endorsements in special education, earned after September 1, 1990, shall be valid in grades kindergarten through 12.

(d) Have completed not less than 8 weeks of directed student teaching in the specific area of impairment. Not less than a 180-hour practicum in the specific area of impairment is required for each additional endorsement.

(e) Be recommended for a certificate or endorsement, or both, in a specific special education area by an institution of higher education or the department signifying verification of completion of a teacher education program for the specific special education area, as approved by the state board of education. The recommendation shall verify that the teacher possesses all of the following in addition to having completed course work that includes the general skill requirements listed in R 340.1781:

(i) Personal maturity.

(ii) Emotional stability.

(iii) Ability to teach.

(iv) Other leadership capacities.

(v) Apparent potential for growth in creative teaching.

(f) On the effective date of these rules, persons approved as special education teachers under this rule, teacher consultants under R 340.1790, and teachers of preprimary-aged students under R 340.1795 shall maintain and continue to have their full approval status.

### **R 340.1783 Temporarily approved teachers of students with disabilities.**

**Rule 83.** Under procedures established by the department, the department may grant temporary approval as a teacher of students with disabilities to persons who hold a valid Michigan teaching certificate. The employing superintendent shall certify that the district conducted a search for fully qualified personnel and that no certified teacher who holds full approval or endorsement for the position was available at the time of the assignment.

Continuation of temporary approval shall be dependent upon the satisfactory completion of not less than 6 semester or equivalent hours of required credit toward full approval between August 31 of the current school year and September 1 of the next school year that the teacher is employed. The school district is not required to conduct a search for a fully qualified teacher in successive school years if the candidate meets these requirements. The school district is not required to remove a teacher under temporary or continuing approval when a fully approved or endorsed teacher becomes available.

**R 340.1783a Early childhood special education teacher, full year permit.**

**Rule 83a.** (1) The department may issue a permit when a properly certificated teacher, under R 340.1795, is unavailable for a regular teaching assignment for children with disabilities or developmental delay, as defined in R 340.1711.

(2) An application for a permit shall contain evidence that the candidate has a baccalaureate degree or higher, including 15 semester or equivalent hours of appropriate professional education credit.

(3) The permit is effective through June 30 of the school year for which the permit is issued.

**R 340.1784 Rescinded.**

**R 340.1785 Rescinded.**

**R 340.1786 Teachers of students with cognitive impairment; special requirements.**

**Rule 86.** (1) The teacher education program for teachers of students with cognitive impairment shall include a minimum of 30 semester or equivalent hours. The teacher education program for teachers of students with cognitive impairment shall include all of the following:

(a) A minimum of 12 semester or equivalent hours of special skills and knowledge necessary for working with students with cognitive impairment, including all of the following:

- (i) The nature of cognitive impairment.
- (ii) Differential curriculum development and teaching techniques.
- (iii) Basic components of language development.
- (iv) The basic sensory-neural system and its relationship to learning and development.
- (v) Classroom management techniques.

(b) A minimum addition of 10 semester or equivalent hours in the development of competency in the following areas:

- (i) Ability to observe and assess students, including all of the following:
  - (A) The nature of mental deficiency.
  - (B) Differential curriculum.
  - (C) Development and teaching techniques.
  - (D) Basic components of language development.
  - (E) The basic sensory-neural system and its relationship to learning and development.
  - (F) Classroom management techniques.
- (ii) Ability to provide instruction and guidance to students with cognitive impairment in all of the following areas:
  - (A) Self-help skills.
  - (B) Prevocational and vocational skill training.
  - (C) Recreation and leisure activities.
- (iii) Ability to understand physical, sensory, and health-related problems and their impact on learning and development, including the understanding and appropriate use of medical information.

(iv) Ability to guide and counsel students with cognitive impairment regarding all of the following:

- (A) Human sexuality.
- (B) Home, family, and community living.

(C) Use of local, state, and national resources.

(v) Ability to understand and utilize basic behavioral management concepts and techniques to meet the unique needs of students with cognitive impairment.

(vi) Ability to organize and manage an educational environment and schedule for a group of students with cognitive impairment, including the understanding of the functions and role of the teacher as educational team leader and the role and function of related services personnel and aides.

(vii) Ability to instruct and reinforce a program of communication skills and techniques, both verbal and nonverbal, as deemed appropriate for the student.

(viii) Ability to utilize community resources and a variety of community settings and activities in the planning and implementation of an educational program for a student with cognitive impairment.

(2) A teacher with an endorsement in mentally impaired is qualified to teach students with cognitive impairment.

#### **R 340.1787 Teachers of students with emotional impairment; special requirements.**

**Rule 87.** The teacher education program for teachers of students with emotional impairment shall include 30 semester or equivalent hours in all of the following areas:

(a) Four to 6 semester or equivalent hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent psychology, learning theory, and psychological information, both individual and group.

(b) Four to 6 semester or equivalent hours of environmental information, including sociological, cultural, economic information; special services and guidance programs in the school and community; organization of the school; characteristics of groups; and social organization and structure.

(c) Six to 10 semester or equivalent hours of educational and special methods, including education of students with special problems, theory and methods of teaching social skills and students with emotional impairment, reading methods, instructional materials, and creative and other activities especially adapted to the education of students with psychological and physiological learning difficulties.

(d) Six to 12 semester or equivalent hours of special skills and techniques in all of the following areas:

(i) Understanding personality deviation, including abnormal psychology.

(ii) Theory of maladjustment.

(iii) Counseling and interview techniques.

(iv) Interpretation of psychological data.

(v) Work in parent counseling.

(e) Six to 10 semester or equivalent hours of application and experience, including supervised observation, with students with emotional impairment, a seminar in interdisciplinary approach, group dynamics, and interpretation of psychiatric techniques.

(f) Two to 4 semester or equivalent hours in evaluation and research methods.

#### **R 340.1788 Teachers of students with learning disabilities; special requirements.**

**Rule 88.** The teacher education program for teachers of students with learning disabilities shall include a minimum of 30 semester or equivalent hours relating to all of the following areas:

(a) Four semester or equivalent hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent or child psychology, learning theory, and psychological information.

(b) Six semester or equivalent hours of special skills and techniques in understanding learning problems, including development of language as it relates to reasoning, thinking, speaking, reading, writing, and spelling; remediation techniques for auditory and visual discrimination problems; development of perceptual skills; and understanding the dynamics of student-teacher relationships, environment, and program planning.



(c) Six semester or equivalent hours in the development of competence in all of the following areas:

(i) Ability to carry out suitable procedures for assessment of the student's listening, thinking, talking, reading, spelling, writing, arithmetic, or other skill deficiencies.

(ii) Ability to specify, in behavioral terms, instructional objectives that are appropriate to the skill needs and entry level characteristics of the individual student.

(iii) Ability to select systems of instruction and learning conditions that are likely to be most effective for ameliorating the learning disabilities presented by each student.

(iv) Ability to set up and maintain conditions and procedures of instruction suitable to the learning goals set for the individual student.

(v) Ability to assess instructional outcomes in terms of the student's behavior change and use this data in formulation of an ongoing instructional plan adjusted to changed student conditions.

(vi) Ability to use appropriate techniques with the student to help develop the self-management skills required for constructive social participation and independent learning.

(vii) Ability to function as a member of interdisciplinary teams and maintain effective liaison with parents and others working with the student.

#### **R 340.1790 Teacher consultants for students with disabilities.**

**Rule 90.** In addition to meeting all of the requirements of R 340.1782, a teacher consultant shall meet all of the following requirements for full approval by the state board of education or its designee:

(a) Possess a master's degree in education or a field of study related to special education.

(b) Recommendation to the department by the employing superintendent, or his or her designee, for approval as a teacher consultant.

(c) Show evidence of a minimum of 3 years of satisfactory teaching experience, not less than 2 years of which shall be teaching in a special education program.

#### **R 340.1791 Rescinded.**

#### **R 340.1792 Licensure, certification, or approval of professional personnel.**

**Rule 92.** Professional personnel employed or contracted with to provide related services to students with disabilities shall be licensed, certificated, or registered by a governmental agency or a legally recognized professional board or association as an indication of adequate preparation and training, or be recommended by a college or university offering an appropriate training program as approved by the state board of education.

#### **R 340.1793 Paraprofessional personnel; qualifications.**

**Rule 93.** Paraprofessional personnel employed in special education programs shall be qualified under requirements established by their respective intermediate school district plan. Paraprofessional personnel include, but are not limited to, teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for students with cognitive impairment or severe multiple impairments.

#### **R 340.1793a Interpreters for the deaf.**

**Rule 93a.** An interpreter for the deaf shall be any of the following:

(a) A certified interpreter as defined in 1982 PA 204, MCL 393.501 et seq., and known as the deaf persons' interpreters act.

(b) A qualified interpreter as defined in 1982 PA 204, MCL 393.501 et seq., and known as the deaf persons' interpreters act, who has been approved at quality assurance level II or III.

(c) A high school graduate, or equivalent, with advanced training in a community college, agency, or degree-granting institution. The training programs must be approved by the department.

**R 340.1794 Rescinded.****R 340.1795 Early childhood special education teachers; special requirements.**

**Rule 95.** (1) An early childhood special education teacher for young children with disabilities or developmental delay, in addition to meeting the specific requirements set forth in R 340.1782, shall possess either of the following:

(a) An early childhood endorsement on the teaching certificate.

(b) A major or minor in early childhood education or child growth and development as recommended by an approved university.

(2) Only candidates meeting the requirements under subrule (1) (b) of this rule are required to be approved by the department.

(3) As of the effective date of these rules, a teacher who has received full approval as a teacher of preprimary age impaired students shall be deemed to have full approval as an early childhood special education teacher, if the teacher possesses a valid michigan teaching certificate.

**R 340.1796 Teachers of students with speech and language impairment; special requirements.**

**Rule 96.** (1) A teacher of students with speech and language impairment shall meet all of the following requirements:

(a) An earned master's degree in speech and language pathology.

(b) A minimum of 60 semester or equivalent hours of academic credit in normal aspects of human communication, development thereof, and clinical techniques for evaluation and management of speech and language disorders distributed as follows:

(i) A minimum of 12 semester or equivalent hours in courses pertaining to normal development of speech, language, and hearing.

(ii) A minimum of 30 semester or equivalent hours in courses on communication disorders and evaluation and management of speech, language, and hearing disorders. Of these 30 semester or equivalent hours, 24 hours shall be in speech and language pathology and 6 shall be in audiology. Not more than 6 of the 30 semester or equivalent hours may be earned for clinical practicum.

(iii) A minimum of 30 semester or equivalent hours that are acceptable on a graduate level, of which 21 hours shall be within the group specified under paragraph (ii) of this subdivision.

(c) A minimum of 300 clock hours of supervised practicum experience with persons who present a variety of communication disorders, to be acquired in conjunction with academic training, 150 hours of which shall be obtained at the graduate level.

(2) The state board of education or its designee shall approve as a teacher of students with speech and language impairment a person who is employed or approved as a teacher of students with speech and language impairment before the effective date of these rules.

(3) A teacher of students with speech and language impairment assigned to programs for students with severe language impairment, as defined in R 340.1756, shall be certified at the elementary level.

**R 340.1797 Teachers of physical education for students with disabilities; special requirements.**

**Rule 97.** A teacher of physical education for students with disabilities shall possess a valid Michigan teaching certificate with an endorsement in physical education, special education, or both, and shall complete all of the following:

(a) A minimum of 9 semester or equivalent hours in special education courses leading to the acquisition of all of the following competencies:

(i) Knowledge of the causes of various disabilities and the effects of those conditions on learning.

(ii) Ability to assess physical education skills of individuals exhibiting various disabilities.

- (iii) Knowledge of special education teaching models that employ assessment-prescriptive techniques.
- (iv) Ability to use community and staff resources within the special education environment.
- (b) A minimum of 9 semester or equivalent hours in special physical education courses leading to the acquisition of all of the following competencies:
  - (i) Ability to write in behavioral terms and assess instructional objectives for physical education for students with disabilities.
  - (ii) Knowledge of motor characteristics, behaviors, and development sequences associated with various disabilities in relationship to normal motor development.
  - (iii) Knowledge of anatomy, kinesiology, and neurology that pertains to normal and abnormal motor control and sensory motor integration for teaching physical education to students with severe disabilities and students who are nonambulatory.
  - (iv) Ability to adapt teaching methods, materials, and techniques for physical and motor fitness, gymnasium use, fundamental motor skills, aquatic skills, dance, individual and group games, and lifetime sports skills for the needs of students with disabilities.
  - (v) Ability to analyze, adapt, and implement physical education curriculum in providing appropriate programs for a variety of disabilities.
- (c) A directed field experience in teaching physical education in a school setting with students with disabilities.
- (d) As of the effective date of these rules, a teacher who has received full approval as a teacher of physical education for handicapped individuals shall be deemed to have full approval as a teacher of physical education for students with disabilities, if the teacher possesses a valid Michigan teaching certificate.

**R 340.1798 Teachers of physical education for students with disabilities; role.**

**Rule 98.** A special education-reimbursed teacher of physical education shall provide instruction in physical education to students with disabilities whose disabilities preclude integration into general physical education classes. Teachers of physical education for students with disabilities may provide supportive service to general physical education teachers who have students with disabilities integrated into their programs and to teachers of students with disabilities who are delivering physical education services.

**R 340.1799 Teachers of students with autism; special requirements.**

**Rule 99.** The teacher education program for teachers of students with autism shall include a minimum of 30 semester or equivalent hours relating to all of the following areas:

- (a) Syndrome of autism, including its etiology.
- (b) Child development, with special emphasis on language, communication, and cognitive development.
- (c) Behavioral intervention techniques.
- (d) Systematic curriculum development, with special emphasis on personal adjustment and prevocational education.
- (e) Home/school interactions.
- (f) Family and community support services.

**R 340.1799a Teachers of students with physical impairment and students with other health impairment; special requirements.**

**Rule 99a.** The teacher education program for teachers of students with physical impairment and students with other health impairment shall include a minimum of 30 semester or equivalent hours. The teacher education program for teachers of students with physical impairment and students with other health impairment shall include both of the following:

- (a) A minimum of 12 semester or equivalent hours of special skills and techniques for working with students with physical impairment and students with other health impairment, including all of the following:
  - (i) Medical aspects of temporary and permanent physical disabilities of a wide variety.

- (ii) Impact of neurological impairments and cognitive impairments on learning.
- (iii) Equipment and techniques of physical management of students with physical impairment and students with other health impairment.
- (iv) Methods and materials for training, observation, and assessment of students with physical impairment and students with other health impairment, including techniques for nonvocal communication.
- (b) A minimum of 10 semester or equivalent hours in the development of competence in all of the following areas:
  - (i) Ability to work as a member of a multidisciplinary evaluation team which includes medical and paramedical personnel and to supervise paraprofessional personnel.
  - (ii) Ability to develop and implement an instructional plan for students, including those confined to home or a hospital.
  - (iii) Ability to explain the condition of the student and the condition's impact on learning and to serve as a resource person for students with physical impairment and students with other health impairment within general and special education classes.
  - (iv) Ability to counsel students regarding all of the following:
    - (A) Human sexuality.
    - (B) Home, family, and community living.
    - (C) Career selection.
    - (D) The use of local, state, and national resources.
  - (v) Ability to develop, implement, and reinforce special instruction in all of the following life skill areas:
    - (A) Self-help skills.
    - (B) Recreation and leisure time activities.
    - (C) Community transportation and mobility.
    - (D) Use of personal aids.
  - (vi) Ability to understand the role and function of related service personnel and to work in conjunction with them in the development and implementation of special instructional programs or techniques necessary for students with physical impairment and students with other health impairment.
  - (vii) Ability to observe and assess students with physical impairment and students with other health impairment through the use of formal and informal tools and techniques.
  - (viii) Ability to work intensively and extensively with parents of students, both as a home instructor for infants and their parents and as a liaison between the educational agencies and the home.

**R 340.1799b Teachers of students with visual impairment; special requirements.**

**Rule 99b.** The teacher education program for teachers of students with visual impairment shall include a minimum of 30 semester or equivalent hours relating to both of the following areas:

- (a) Twelve semester or equivalent hours of special skills and techniques for working with students with visual impairment, including all of the following:
  - (i) Beginning and advanced braille.
  - (ii) Methods of teaching students with visual impairment.
  - (iii) Special equipment and its use for students with visual impairment.
- (b) Ten semester or equivalent hours in the development of competence in all of the following areas:
  - (i) Ability to work as a member of a multidisciplinary evaluation team which includes medical and technical personnel.
  - (ii) Ability to develop and implement a curriculum and an instructional program for a range of students with visual impairment.
  - (iii) Ability to implement and support a program of communication skills and techniques and to implement and support a program of orientation and mobility skills as deemed appropriate for the student.

(iv) Ability to explain the structure and function of the eye and the impact of vision impairment on learning and to serve as a resource person and consultant for students with visual impairment in general and special education classes.

(v) Ability to instruct students with visual impairment regarding all of the following:

- (A) Human sexuality.
- (B) Home, family, and community living.
- (C) Career selection.
- (D) The use of local, state, and national resources.

(vi) Ability to develop and implement special instruction in all of the following life skill areas:

- (A) Self-help skills.
- (B) Recreation and leisure time activities.
- (C) Community transportation and mobility.
- (D) Use of personal aids.

(vii) Ability to work intensively and extensively with parents of students with visual impairment, both as a home instructor for parents and as a liaison between the educational agencies and the home.

**R 340.1799c Teachers of students with hearing impairment; special requirements.**

**Rule 99c.** (1) The teacher education program for teachers of students with hearing impairment shall include a minimum of 30 semester or equivalent hours. The teacher education program for teachers of students with hearing impairment shall meet the council on education of the deaf standards or shall, at a minimum, include 30 semester or equivalent hours relating to all of the following areas:

- (a) Language and linguistics.
- (b) Audiology and speech science.
- (c) Psychology.
- (d) Education.

(2) Students shall complete a program that is designed to develop all of the following competencies:

- (a) Knowledge of linguistics, theories of language development, and the various special methods used to assess and develop language competence.
- (b) Ability to utilize an individual diagnostic profile of the student's expressive and receptive language skills.
- (c) Ability to integrate language development with the teaching of English, mathematics, social studies, science, and other academics.
- (d) Ability to use various and combined modes, manual and oral, in both expressive and receptive communication with students with hearing impairment.
- (e) Knowledge of the anatomy, physiology, and pathology of the organs of speech and hearing.
- (f) Knowledge of audiological assessment information and its application to the individualized education program of a student with hearing impairment.
- (g) Knowledge of personal and group amplification systems, including their basic maintenance.
- (h) Ability to incorporate and teach appropriate procedure to maximize the use of speech, speech reading, and auditory skills.
- (i) Ability to use systematic observational techniques for establishing baseline data, evaluating problem areas, and for documenting and assessing progress.
- (j) Knowledge of the psychological and sociological impact of severe/profound hearing impairment, including information about the community/culture of adult persons who are deaf.
- (k) Ability to identify and use local, state, and national resources in support of students with hearing impairment, their parents, and their educational program.
- (l) Ability to orient parents, general education school staff, and administrators to the unique needs and learning styles of students with hearing impairment.

(m) Ability to assess communication, academic, and social/emotional development of students with hearing impairment.

(n) Ability to relate diagnostic information in functional terms to parents and support service specialists.

(o) Ability to design and implement an educational program appropriate to the individual student's communication, academic, prevocational, and social needs.

(p) Ability to modify and adapt procedures for teaching reading, math, and other academic subjects to students with hearing impairment.

(3) Before assignment to directed student teaching, each student shall spend a minimum of 60 clock hours in programs utilizing various communication modes, both manual and oral.

(4) The council on the education of the deaf standards, as cited in subrule (1) of this rule, are adopted by reference in these rules and are available from the Committee on Professional Preparation and Certification, Gallaudet University, 800 Florida Avenue, N.E., Washington, D.C., 20002-3695, and also from the Michigan Department of Education, Office of Special Education and Early Intervention Services, P.O. Box 30008, Lansing, MI, 48909, at no cost for reproduction.

**R 340.1799d Rescinded.**

**R 340.1799e "Psychologist" defined.**

**Rule 99e.** "Psychologist" means an approved Michigan school psychologist who is certified by the department or who is a fully licensed psychologist.

**R 340.1799f "School social worker" defined.**

**Rule 1799f.** "School social worker" means a school social worker who is approved by the department.

## **PART 6. FINANCING**

### **R 340.1801 Source of funds.**

**Rule 101.** Funds for operating and housing special education programs and services operated by intermediate school districts, constituent local school districts, and public school academies shall be derived from federal appropriations; general and categorical appropriations in 1979 PA 94, MCL 388.1601 et seq., and known as the state school aid act of 1979; local general and specific property taxes, gifts, grants, and bequests; or payments from a school district sending students with disabilities to another school district.

### **R 340.1802 Use of funds.**

**Rule 102.** Funds available to intermediate school districts, constituent local school districts, and public school academies as provided in R 340.1801 may be used for any of the following:

- (a) The employment of teachers and other personnel.
- (b) Transportation of students with disabilities.
- (c) The purchase and maintenance of equipment and supplies.
- (d) The lease, purchase, construction, renovation, or acquisition of vehicles, sites, buildings or portions thereof, and equipment as deemed necessary for staff, programs, and services operated under the intermediate school district plans as approved by the state board of education and other provisions of law.

### **R 340.1803 Building or purchasing facilities.**

**Rule 103.** When facilities are purchased, constructed, or renovated with funds acquired through 1976 PA 451, MCL 380.1722 to 380.1729 for constituent local school districts, funds shall be used for contractual purposes which provide that the constituent local school district or public school academy shall make that facility available for special education programs and services for a period of 25 years. Disbursement of the funds shall be made by the intermediate school district board of education under the intermediate school district plan.

### **R 340.1805 Rescinded.**

### **R 340.1806 Rescinded.**

### **R 340.1808 Reporting costs.**

**Rule 108.** An intermediate school district, a local school district, or a public school academy operating a program under these rules shall submit to the superintendent of public instruction, at the close of the fiscal year, an itemized report of the actual cost of operating the program, including the cost of transportation, on forms provided for that purpose. Reported actual costs for purposes of reimbursement shall include only those that are reasonable and appropriate as determined by the superintendent of public instruction.

### **R 340.1809 State aid to operating school districts.**

**Rule 109.** The intermediate school district and its constituent local school districts and public school academies shall be entitled to receive reimbursement for special education programs and services that are in compliance with these rules and in accordance with the intermediate school district plan as approved by the state board of education and as prescribed in 1979 PA 94, as amended, MCL 388.1601 et seq., and known as the state school aid act of 1979.

**R 340.1810 Reimbursement of special education transportation.**

**Rule 110.** Specialized transportation or additional transportation, or both, as required in the individualized education program for a handicapped person to receive a free appropriate public education in the least restrictive educational environment, shall be reimbursable as authorized by 1979 PA 94, as amended, MCL 388.1601 et seq., and known as the state school aid act of 1979.

**R 340.1811 Distribution of intermediate millage to the intermediate school district, its constituent local school districts, and public school academies.**

**Rule 111.** (1) Only those programs and related services provided under a state board of education-approved intermediate school district plan and approved for reimbursement by the department shall be eligible for reimbursement from funds generated by adoption of millage under 1976 PA 451, MCL 380.1723 and 380.1724.

(2) If intermediate school district special education tax funds are insufficient to reimburse constituent claims in full, then a like percentage of the claim shall be paid for support of each program and service to each constituent district. Claims for operation of special education programs and services available to all constituent local school districts or public school academies may be reimbursed in full before any prorated payment which may become necessary for other programs and services.

(3) Current intermediate school district special education tax funds need not be used to offset operational claim deficits from prior years.

(4) Amounts may be retained by the intermediate school district for required cash flow purposes not to exceed 1 year's operational expenses for the purpose of maintaining special education programs and services operated by the intermediate school district.

(5) Intermediate school districts shall submit the desired method for the distribution of funds to the intermediate school district, its constituent local school districts, and public school academies and the reasons therefor for approval as part of the intermediate school district plan required under section 1711 of 1976 PA 451, MCL 380.1711.

**R 340.1812 Intermediate school district's use of special education millage.**

**Rule 112.** (1) Costs for the operation of special education programs and services by the intermediate school district, available to all constituent local school districts and public school academies, may be reimbursed in full before the reimbursement of local districts from funds generated by adoption of millage under sections 1723 and 1724 of 1976 PA 451, MCL 380.1723 and 380.1724.

(2) If intermediate school district special education personnel offer direct services to students with disabilities in some but not all constituent local school districts or public school academies, and if prorated payment of constituent local school district or public school academy operational claims is necessary, then the per capita deficit for each student served shall be paid by the school district of residence or a direct charge shall be made to the constituent local school district based on the amount of deficit and the proportion of time the constituent local school district or public school academy received the service from the intermediate school district.



**PART 7.**  
**DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS'**  
**PLANS AND MONITORING**

**R 340.1831 Plan and modification submission.**

**Rule 131.** (1) Each intermediate school district board shall submit an intermediate school district plan for special education to the superintendent of public instruction to become effective when approved by the superintendent of public instruction.

(2) Any intermediate school district plan or subsequent modification approved by the superintendent of public instruction shall be distributed by the intermediate school district to each constituent local school district superintendent, each chief executive officer of a public school academy, and the chairperson of the parent advisory committee within 7 calendar days of the intermediate school district's receipt of approval by the superintendent of public instruction.

(3) Except as provided in subrule (4) of this rule, a plan submitted by an intermediate school district and approved by the superintendent of public instruction shall remain in effect until the intermediate school district submits modifications that the intermediate school district deems necessary to the department and the modifications are approved by the superintendent of public instruction.

(4) The department may require an intermediate school district to modify its plan if, after the effective date of the individuals with disabilities education act amendments of 1997, 20 U.S.C. §1400 et seq., the provisions of that act, its regulations, 34 C.F.R. 300.1, et seq., 1976 PA 451, MCL 380.1 et seq., or these rules are amended, there is a new interpretation of any of these laws or regulations by a public agency or court, or the department finds noncompliance.

(5) If the department requires a modification to the intermediate school district plan under subrule (3) of this rule and an intermediate school district's process as set forth in this part does not result in agreement among the intermediate school district, its constituent local school districts, public school academies, and the parent advisory committee regarding the required modification, then the intermediate school district shall submit the required modification. A constituent local school district, public school academy, or the parent advisory committee may file an objection under R 340.1836.

**R 340.1832 Content areas.**

**Rule 132.** (1) An intermediate school district plan for special education, or any modification thereof, shall be an operational plan that sets forth the special education programs and related services to be delivered. The plan shall comply with 1976 PA 451, MCL 380.1 et seq. and these rules. The plan shall also comply with the following format and include, at a minimum, all of the following:

(a) A description of the procedures used by the intermediate school district to advise and inform students with disabilities, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local school districts, public school academies, and intermediate school district; and the title, address, and telephone number of representatives of those agencies who can provide information about the special education opportunities.

(b) A description of activities and outreach methods which are used to ensure that all citizens are aware of the availability of special education programs and services.

(c) A description of the type of diagnostic and related services that are available, either directly or as a purchased service, within the intermediate school district or its constituent local school districts or public school academies.

(d) A description of the special education programs designed to meet the educational needs of students with disabilities.

(e) The intermediate school district plan shall either describe special education programs and services under part 3 of these rules or shall propose alternative special education programs and services.

(f) The plan shall be approved by the superintendent of public instruction before implementation under R 340.1831(1). The plan is developed and approved under R 340.1833, and R 340.1835 to R 340.1837.

(g) The identity of the full- or part-time constituent local school district or public school academy administrator who, by position, is responsible for the implementation of special education programs and services.

(h) A description of the qualifications of paraprofessional personnel.

(i) A description of the transportation necessary to provide the special education programs and services described in subdivisions (c), (d), and (e) of this subrule.

(j) A description of the method of distribution of funds under R 340.1811(5).

(k) A description of how the intermediate school district will appoint the parent advisory committee members under R 340.1838(1) and (2).

(l) A description of the role and responsibilities of the parent advisory committee, including how it shall participate in the cooperative development of the intermediate school district plan, formulate objections thereto, if any, and related matters, such as the role and responsibility of the parent advisory committee in evaluating special education programs and services within the intermediate school district.

(m) A description of the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the parent advisory committee in its responsibilities.

(n) A description of the fiscal and staff resources that shall be secured or allocated to the parent advisory committee by the intermediate school district to make it efficient and effective in operation.

#### **R 340.1833 Cooperative development and review.**

**Rule 133.** (1) Intermediate school district plans, or any modification thereof, shall be developed in cooperation with constituent local school districts, public school academies, and the parent advisory committee.

#### **R 340.1834 Rescinded.**

#### **R 340.1835 Plan signatures.**

**Rule 135.** Each intermediate school district plan, or modification thereof, shall be signed by all of the following:

(a) The intermediate school district superintendent, signifying approval by the intermediate school district board.

(b) The superintendent of each constituent local school district, the chief executive officer of each public school academy, and the chairperson of the parent advisory committee, signifying their involvement in the development of the intermediate school district plan.

#### **R 340.1836 Objections to plan; procedures.**

**Rule 136.** (1) Any constituent local school district, public school academy, or the parent advisory committee may file objections with the intermediate school district, in whole or in part, to an approved intermediate school district plan or a plan modification that has been submitted to the superintendent of public instruction for approval. Copies of an objection to the plan shall, within 7 calendar days, be directed to the department by the intermediate school district board of education and to all constituent local school districts, public school academies, and the parent advisory committee by certified mail, return receipt requested. Objections filed shall specify the portions of the intermediate school district plan objected to, contain a specific statement of the reasons for objection, and shall propose alternative provisions.

(2) A hearing officer shall be designated by the department and shall promptly give reasonable notice of the hearing. The hearing shall begin not later than 30 calendar days from the date the request was filed with the department. The hearing shall be conducted according to

procedures established by the department. After the appointment of the hearing officer, the objection may be withdrawn upon written stipulation of the intermediate school district and the objecting party.

(3) The intermediate school district, a constituent local school district, a public school academy, or the parent advisory committee may file, with the department, a response to the objection before the hearing.

(4) Within 30 calendar days after the closing of the hearing, the hearing officer shall report findings of fact and conclusions of law and shall recommend to the superintendent of public instruction whether the intermediate school district plan or modification to the plan should be approved as submitted, approved with such other modifications as deemed appropriate by the hearing officer, or the objections granted as submitted. The findings and recommendations shall be immediately mailed by the department to all parties to the intermediate school district plan. Any party may file written exceptions to the findings and recommendations with the superintendent of public instruction within 20 calendar days of receipt of the findings and recommendations and direct copies of the exceptions to all other parties and the department. The findings and recommendations of the hearing officer, including any exceptions, shall be submitted to the superintendent of public instruction with the intermediate school district plan. The superintendent of public instruction shall render a final decision within 30 calendar days from the date the exceptions were to be filed.

#### **R 340.1837 Approval of intermediate school district plans.**

**Rule 137.** (1) Intermediate school district plans, or modification thereof, or any changes to the intermediate school district plan based on an objection to the plan, shall be approved by the superintendent of public instruction under R 340.1836. The intermediate school district plans or modifications shall be in compliance with all of the following:

(a) The provisions of sections 1701 to 1766 of 1976 PA 451, MCL 380.1701 to 380.1766.

(b) Michigan rules promulgated to implement statutory provisions for special education programs and services.

(c) The individuals with disabilities education act, 20 U.S.C. §1400 et seq., and its implementing regulations, 34 C.F.R. §300.1 et seq., adopted by reference in R 340.1701.

(2) Intermediate school district boards of education, constituent local school boards, public school academies, and the parent advisory committee shall be advised by the superintendent of public instruction as to whether the intermediate school district plan was approved.

#### **R 340.1838 Parent advisory committee.**

**Rule 138.** (1) A parent advisory committee shall be appointed by each intermediate school district board.

(a) The parent advisory committee and its officers shall consist only of parents of students with disabilities with at least 1 parent from each constituent local school district and public school academy unless no parent agrees to serve on the parent advisory committee to represent the constituent local school district or public school academy.

(b) Each constituent local school district board of education and each public school academy board of directors shall nominate at least 1 parent.

(c) The intermediate school district board of education may nominate additional members not to exceed 33 1/3% of the total parent advisory committee membership.

(2) The intermediate school district board of education shall make every attempt to assure that all types of impairments and all identifiable organizations of parents of students with disabilities within the intermediate school district are represented on the parent advisory committee.

(3) The intermediate school district board of education may recommend operational procedures for parent advisory committee review and adoption.

(4) The intermediate school district shall secure or allocate fiscal and staff resources to the parent advisory committee to make it efficient and effective in operation.

(5) The parent advisory committee is responsible for determining and documenting, in writing, the organizational structure of the committee, including all of the following:

- (a) Officers and their responsibilities.
- (b) Meeting times.
- (c) Notice of meeting times.
- (d) Voting procedures.
- (e) Terms of office.
- (f) Related matters.

(6) The parent advisory committee shall participate in the development of the intermediate school district's plan or any modification of the plan for the delivery of special education programs and services as required by R 340.1833.

(7) The parent advisory committee may provide advisory input on any matters that the committee deems appropriate to the improvement of special education services within the intermediate school district.

**R 340.1839 Monitoring and program evaluation.**

**Rule 139.** (1) The department shall establish, with approval of the state board of education, monitoring procedures, criteria, and evaluation activities to ensure that minimum standards are being achieved by all public agencies.

(2) Each intermediate school district shall implement monitoring procedures and evaluation methods developed by the department to ensure that the standards and criteria established are being achieved by the intermediate school district, their constituent local school districts, and their public school academies.

## PART 8. COMPLAINTS

### **R 340.1851 Intermediate school district's responsibility for investigation of complaints; report.**

**Rule 151.** (1) An intermediate school district, upon receipt of a complaint, shall investigate the complaint under these rules and the procedures approved by the state board of education. The investigation shall include direct communication with the complainant or the complainant's authorized representative. The complainant shall be informed of the specific procedures for conducting the investigation, filing reports, and appealing the conclusions contained in the investigation report. The investigation shall be completed and a report shall be filed by the intermediate school district within 21 calendar days after the date of receipt of the complaint. The report shall be filed with the complainant, the local school district or public school academy, if applicable, and the department. The report shall contain information as specified in procedures approved by the state board of education and shall contain notification of the complainant's right to appeal the conclusions of the investigation and to have the department review the intermediate school district's decision on the complaint.

(2) The intermediate school district may contract with an independent agent to conduct the investigation or shall appoint a person who is a member of the special education staff to be responsible for investigating complaints under this part. The person shall not have administrative authority over programs or services against which a complaint may be filed. Copies of this part and the procedures approved by the state board of education shall be made available by the intermediate school district for distribution to its employees, the employees of constituent local school districts, the employees of constituent public school academies, the public, and other agencies operating special education programs and services.

(3) An intermediate school district receiving a complaint under its jurisdiction shall, during the pendency of any proceeding stipulated in this rule, require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in its judgment, not doing so may constitute a violation of the student's due process protection or if so directed by the department.

### **R 340.1852 Department responsibilities for processing complaints and conducting state investigations.**

**Rule 152.** (1) The department may, for good cause, investigate a signed, written complaint under the procedures approved by the state board of education, regardless of the status of the investigation under R 340.1851.

(2) Upon receipt of a complainant's appeal for review of the intermediate school district's decision on the complaint, the department, under the procedures approved by the state board of education, shall do all of the following:

(a) Carry out an independent on-site investigation if the department determines that an investigation is necessary.

(b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(c) Review all relevant information and make an independent determination as to whether the educational agency is violating any of the provisions of law specified in the definition of "complaint" in R 340.1701a(c).

(3) The department shall issue a written report to the complainant and to the educational agency against which the complaint was filed that addresses each allegation in the complaint and contains all of the following information:

(a) Findings of fact and conclusions.

(b) The reasons for the department's final decision.

(c) Procedures for effective implementation of the department's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

(4) The intermediate school district is responsible for assisting the agency in violation, for monitoring progress of the corrective action, and for informing the department when the corrections have been completed.

(5) Proof of compliance shall be submitted by the educational agency that was in violation within the time line specified in the directive for correction.

(6) Upon failure of an educational agency to correct known violations of law, upon failure of the educational agency in violation to cooperate with the department or the intermediate school district during the conduct of its investigation, or upon known falsification of fact or continued repetition of similar violations, the state board of education shall do 1 or more of the following:

(a) If the educational agency in violation is a local school district or a public school academy, then the state board of education shall direct the intermediate school district board to provide complying programs and services as stipulated in 1976 PA 451, MCL 380.1702.

(b) If the agency in violation is an intermediate school district, the state board of education may withdraw the authority of the intermediate district to operate a program in noncompliance and simultaneously require the local district of residence to place the affected student or students in an appropriate program.

(c) Withhold federal funds under section 1413(d)(1) of the individuals with disabilities education act of 1997, 20 U.S.C. §1413(d)(1).

(d) Apply other penalties, as stipulated in 1976 PA 451, MCL 380.1 et seq.

(e) Withhold state funds under 1979 PA 94, MCL 388.1601 et seq., or any other governing statute.

(f) Withhold, withdraw, or suspend such endorsements, approvals, credentials, grants, or authorizations pertaining to special education personnel or projects that the state board of education or its designee had authority to grant as authorized by, and in accordance with, the procedures required by law.

(g) Seek enforcement in a court of appropriate jurisdiction of the corrective action determined appropriate.

(7) The state board of education or its designee, during the pendency of any proceeding under this part, shall require any educational agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in the judgment of the state board of education or its designee, not doing so constitutes a violation of the student's due process protections.

#### **R 340.1853 General responsibilities of all agencies for processing complaints and investigations.**

**Rule 153.** (1) The term "complaint" is defined in R 340.1701a(c). All public educational agencies shall receive allegations of violations of state or federal regulations pertaining to special education. If the allegation is made orally, the recipient agency may take formal or informal action as necessary to resolve the situation in compliance with applicable provisions of law, but, at a minimum, shall immediately do all of the following:

(a) Inform the person making the allegation that he or she has a right to file a written formal complaint with the appropriate intermediate school district or with the department and to have that complaint investigated in accord with this part and procedures approved by the state board of education.

(b) Inform the person making the allegation that if he or she wishes to delay filing a formal complaint so that an informal resolution may be attempted, he or she retains the right to file a formal complaint if the informal attempts to resolve the concern in a timely manner are unsuccessful.

(c) Provide the person making the allegation with a copy of this part and the state board of education's procedures pertaining to complaints and offer to assist the person to file the complaint.

(2) A person claiming to be acting on behalf of a complainant may be required to provide evidence of that authority.

(3) Complaints are initially investigated by the intermediate school district. At its discretion, the department, for good cause shown, may initiate a complaint or may conduct the initial investigation of the complaint instead of requiring the intermediate school district to investigate the complaint initially.

(4) A time limit of 60 calendar days after a complaint is filed is allotted for the intermediate school district to complete the investigation responsibilities under R 340.1851 and for the department to complete its review as specified in R 340.1852.

(5) An extension of time specified in this part may be granted by the department only if exceptional circumstances exist with respect to a particular complaint. A denial of an extension request is final.

**PART 9.**  
**RECORDS AND CONFIDENTIALITY**

**R 340.1861 Records; maintenance; content; transfer of records; release of records.**

**Rule 161.** (1) A registry shall be maintained by intermediate school districts under procedures established by the department and under the provisions of 1976 PA 451, MCL 380.1711, for all students with disabilities, as defined by R 340.1702, including students placed in state and privately operated facilities. The registry shall be an operational, active database system with the capacity to provide up-to-date student counts and other data requirements to the department on a timely basis. Each constituent local school district, public school academy, or state agency shall provide the intermediate school district with a complete updated data record for each student with a disability. The updated record shall contain full-time equivalency data for each student enrolled in a special education program by the student count dates required in the state school aid act, 1979 PA 94, MCL 388.1601 et seq., and shall contain each student's data enrolled in programs and services by the student count date required by the regulations implementing the individuals with disabilities education act, 34 C.F.R. §300.1 et seq.

(2) If the residency of a student with a disability changes from one intermediate school district to another, then the intermediate school district of previous residence shall transfer the records maintained under this rule to the new intermediate school district upon written request of the intermediate school district of residence and the parent of the student with a disability for whom the record was maintained.

**R 340.1862 Rescinded.**

**R 340.1863 Rescinded.**

**R 340.1864 Rescinded.**

**R 340.1865 Rescinded.**

**R 340.1866 Rescinded.**

**R 340.1867 Rescinded.**

**R 340.1868 Rescinded.**

**R 340.1869 Rescinded**

**R 340.1870 Rescinded**

**R 340.1871 Rescinded.**

**R 340.1872 Rescinded.**

**R 340.1873 Rescinded.**